D.B. INCOME TAX APPEAL NO.90/2006
(CIT Vs. Barmer Central Co-operative Bank)

Date of order : 20.9.2006

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. Sangeet Lodha, for the appellant.

The appellant – Commissioner of Income Tax seeks to raise following questions as substantial questions of law arise for consideration in this appeal :

> 1. "Whether on the facts and in the circumstances of the case, the learned ITAT has erred in law in holding that interest accrued on deposits in Kisan Vikas Patra was entitled for exemption under Section 80P(2)(a)(i) of the IT Act though this investment was not necessitated by virtue of any statutory provision or required to be made under the Banking Regulation Act, 1949 and Reserve Bank of India's guidelines under which the banks including the cooperative societies engaged in banking business are statutorily bound to keep part of their deposits in Government Securities.
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> 2. Whether the findings recorded by the learned Tribunal are contrary to record and perverse ?"

It has been pointed out that in respect of the very same assessee very same questions have been raised in DB Income Tax Appeal No.111/2005 relating to assessment year 1996-97 whereas this appeal relates to assessment year 1997-98. The facts of the present

appeal are otherwise not in dispute and not distinguishable from the facts of the aforesaid appeal. The said appeal has since been decided on 25.11.2005 holding that in view of the fact that the issue having been decided in view of the law laid down by Hon'ble Supreme Court in CIT Vs. Karnataka State Co-operative Apex Bank, 251 ITR 194 over-rulling the decision in Madhya Pradesh Co-operative Bank Ltd. Vs. Addl. Commissionr of Income Tax (1996) 218 ITR 438 on which the reliance was placed by the revenue. No substantial questions of law can be said to arise for consideration in this appeal.

Accordingly, this appeal also fails and is hereby dismissed.

(GOPAL KRISHAN VYAS), J. (RAJESH BALIA), J.

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